

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6079 of 1997

with

SPECIAL CIVIL APPLICATION No 6270 of 1997

And

CIVIL APPLICATION NO.8268/97 in SCA NO. 6079/97

For Approval and Signature:

Hon'ble THE CHIEF JUSTICE MR. K.SREEDHARAN and Sd/-

MR.JUSTICE A.R.DAVE Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? Yes.
  2. To be referred to the Reporter or not? Yes.
  3. Whether Their Lordships wish to see the fair copy of the judgement? No.
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? No.
  5. Whether it is to be circulated to the Civil Judge?  
No.
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JAN SANGHARSH MANCH

Versus

STATE OF GUJARAT

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Appearance:

1. Special Civil Application No. 6079 of 1997  
MR MUKUL SINHA for Petitioner  
GOVERNMENT PLEADER for Respondent No. 1  
MR ANAND L SHARMA for Respondent No. 2
2. Special Civil Application No 6270 of 1997  
MR MA TANK for Petitioner  
MR KETAN A DAVE for Respondent No. 1, 2

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CORAM : THE CHIEF JUSTICE MR. K.SREEDHARAN and  
MR.JUSTICE A.R.DAVE

Date of decision: 9/03/98

CAV JUDGMENT (Per K. Sreedharan, C.J.)

The issues raised in these Special Civil Applications are the same. So, we consider it advantageous to dispose of them by a common judgment.

2. The Special Civil Application No.6079 of 1997 has been filed by a voluntary organisation stated to be devoted for protection of civil rights of citizens. The Special Civil Application No.6270 of 1997 is at the instance of an office bearer of a political party namely, Communist Party of India. In these petitions the main prayer is to direct the Government to extend the tenure of the Inquiry Commission which was appointed as per Notification dated 21.12.1992.

3. The short facts necessary for understanding the controversy involved in these petitions are as follows:

The Government of Gujarat appointed a Commission under the Commissions of Inquiry Act, 1952 (hereinafter referred to as "the Act") by Notification dated 21.12.1992 to inquire into the facts and circumstances and causes of the violent incidents and communal riots that took place during 6th to 9th December 1992 following the demolition of Babri Masjid. While the Commission was at the verge of completing its final report the Government refused to grant further extension from 1.7.1997. By Notification dated 2.9.1997 issued under Section 7(1) of the Act the Commission was notified to have ceased to exist with effect from 30.6.1997. This action of the Government in issuing the Notification under Section 7 of the Act is under challenge.

4. Immediately after demolition of Babri Masjid at Ayodhya on 6.12.1992 the entire country witnessed communal conflicts. The said conflicts had its repercussions in the State of Gujarat between 6th and 9th December 1992. During this period various barbaric acts were perpetrated by the people, especially in Surat. Taking into consideration the extreme violence that took place in various parts of the State, the State Government decided to appoint a Commission to inquire into the incidents under the Act. Mr. Justice I.C. Bhatt, a Retired Judge of the High Court of Gujarat was appointed

as Commission by Notification dated 21.12.1992. Mr. Justice I.C. Bhatt resigned from the Commission when he was appointed as Lokayukta. Mr. Justice P.M. Chauhan, a Retired Judge of the High Court of Gujarat was then appointed as Commission on 9.12.1993. According to the petitioners, the Government did not appoint required staff for the Commission. Till about the middle of 1996, it is averred, stenographer and other members of the staff were not made available to the Commission. Despite this, it is the petitioners' case, the Commission examined nearly 1300 witnesses and accepted nearly 2,000 documents in evidence. It is the further case of the petitioners that the Commission was in the process of dictating its report when its period which was being extended periodically was to expire on 30.6.1997. The Commission which was originally appointed for a period of six months was being given extension from time to time and the last extension was for a period of three months which was to expire on 30.6.1997. The Commission sought another extension for a period of four months to complete the report. The Government did not respond to that request. Unfinished work of the Commission came to a grinding halt on 30.6.1997.

5. On behalf of the State Government the Secretary to Government in Home Department, Mr. J. Mahapatra filed affidavit dated 3.10.1997 in reply to averments made by the petitioners in Special Civil Application No. 6079 of 1997. As per that affidavit no right of the petitioners much less fundamental right has been violated by the Government in winding up the Commission by issuing Notification under Section 7(1) of the Act for the petitioners to move this Court under Article 226 of the Constitution of India. The State Government appointed Shri H.R. Kamodia, retired District and Sessions Judge to be the Secretary to the Commission. Shri Kamodia resigned from the post with effect from 31.12.1996. The Government had deputed Under Secretary, Stenographer Grade-I, Stenographer Grade-III, Typist, one Assistant, one Clerk, two peons and one driver as members of the staff of the Commission. When Stenographer Grade-I was not available the Commission was requested to get the services of private Stenographer on payment to be reimbursed by the Government. Same request was made with respect to Gujarat Stenographer as well. The period of the Commission was extended nine times. The Government expected work to be completed by the Commission within reasonable time for the Government to take necessary action on the report. The Commission did not submit either an interim report or preliminary report even though period of six months was the time fixed for

submission of the report, when the Commission was appointed. The period was being extended and 9th extension was given for the period from 1.4.1997 to 30.6.1997. The Government took the decision to wind up the Commission on the following reasons:

(i) The victims of the violence have been compensated;

(ii) People who have suffered lodged police complaints which are taken care of legally;

(iii) People who have suffered have lodged complaints and the proceedings under the Criminal Procedure Code have already been initiated;

(iv) Accused found in such cases have been arrested;

(v) Because of lapse of time people have lost interest;

(vi) No Advocates were attending the Commission for cross-examining the officers of the Police Department, who have filed their affidavits; and

(vii) There has been communal peace and harmony in the State since the riot of 1992.

6. As per Section 7 of the Act appropriate Government have power to issue notification for discontinuing the Commission. The Government had no ulterior motive in winding up the Commission. It had nothing to hide from the public, as alleged by the petitioners. The affidavit was concluded by stating that the petitions have only to be dismissed.

7. Section 3(1) of the Act permits the appropriate Government to appoint a Commission of Inquiry for the purpose of making inquiry into any definite matter of public importance. The notification by which the Commission is so appointed is to specify the time within which the Commission shall make the inquiry and perform the function. It is settled law that Section 3(1) of the Act confers discretion on the Government to appoint a Commission or not. The discretionary power that is conferred on the government is not coupled with any duty. The said Section merely gives a power to the Government to appoint a Commission and does not, at the same time, confer any benefit on any person or group of persons, a corresponding right to call upon the Government to have an inquiry conducted. The Government is getting the

power to inform its mind or to find out if certain facts exist. It is for the Government to consider whether to appoint a Commission for making an inquiry. In other words, no corresponding right is conferred on any person to compel the Government to appoint a Commission. When such is the right given to the Government which is purely discretionary, the Courts have taken the view that Government cannot be compelled to appoint a Commission under the Act.

8. The Government in the instant case appointed the Commission to inquire into various incidents that took place during the period from 6.12.1992 to 9.12.1992 in the wake of demolition of Babri Masjid. As per the Notification issued on 21.12.1992 the Commission was to submit its report within six months. The Commission got its tenure extended on nine occasions. The 9th extension was from 1.4.1997 to 30.6.1997. By that time more than four and half years expired from the dates of incidents and date of appointment of the Commission. During this period the Commission did not submit any preliminary report or interim report. On 3.6.1997 a communication was sent by the Commission to the Government asking for further extension of four months i.e. upto 31.10.1997. The Government did not act on that communication.

9. Section 3 of the Act enjoins the Government to specify the time within which a Commission has to submit its report. According to the Section, a notification appointing the Commission should specify the functions and the time within which those functions should be performed and the Commission shall make the inquiry and perform the functions accordingly. If the Commission does not perform the functions within the time specified in the notification the Commission cannot have the functions continued after the expiry of the period. In other words, on the expiry of the term the Commission automatically ceases to exist. Once the Commission ceases to exist by influx of time there was no necessity for the Government to notify the cessation of the Commission under Section 7 of the Act. Section 7(1)(a) of the Act states that the appropriate Government may, by notification in the Official Gazette, declare that a Commission shall cease to exist, if it is of opinion that the continued existence of the Commission is unnecessary. Sub-section (2) of Section 7 of the Act provides that the notification should specify the date from which the Commission shall cease to exist. Notification under Section 7 of the Act is contemplated only in the case of a Commission which is continued to exist. If the Commission had ceased to exist on the expiry of the term

for which it is appointed, Section 7 of the Act cannot apply. In the case of a Commission which is having continued existence the Government needs to issue a notification under Section 7 of the Act declaring that it ceased to exist from a particular date. In other words, notification under Section 7 of the Act is not warranted in relation to a Commission which is not having continued existence as in the case of the term of the Commission having expired. In the case on hand the term of the Commission expired on 30.6.1997. Since its term has not been extended by the Government it automatically ceased to exist with effect from 30.6.1997. The Commission did not continue to exist after 30.6.1997. In such a situation there was no necessity for the Government to issue a notification under Section 7 of the Act on 2.9.1997. That notification has only to be ignored.

10. According to the learned counsel representing the petitioners, notification dated 2.9.1997 is illegal and against the provisions of the Act. It is his argument that notification under Section 7 of the Act cannot be retrospective and it can only be prospective. It is true that a notification under Section 7 of the Act should state that the Commission shall cease to exist with effect from a particular date in relation to one which has a continued existence. If the Commission is not having continued existence on a particular date notification under Section 7 of the Act subsequent to that date is unwarranted. In the instant case on account of non-extension of the term of the Commission from 30.6.1997 the Commission ceased to exist and a notification under Section 7 of the Act was not at all warranted. Viewed in this light notification dated 2.9.1997 will not in any way affect the life of the Commission. This will not in any way go to support the petitioners' claim to have the life of the Commission extended.

11. As stated earlier, this Court has no power to direct the Government to appoint a Commission under the Act. On account of influx of time the term of the Commission expired on 30.6.1997. The term was not extended by the Government. This Court cannot compel the Government to extend the term of that Commission either.

12. The Government have given many reasons for not extending the term of the Commission. One of the reasons is that there has been communal peace and harmony in the State since the riot of 1992. In such a situation the Government thought it proper not to have a postmortem examination of the circumstances which led to riots for

kindling feelings of bickering between members of different communities. This reason appears to be quite justifiable. It cannot be said that it is an irrelevant consideration. The circumstances which led the Government for not extending the term of the Commission can never be stated to be on collateral consideration. No ground of mala fides against the Government has been even alleged by the petitioners in these petitions. On the facts and circumstances of this case we are not in a position to spell out mala fides or collateral consideration in Government in not giving extension to the term of the Commission. The Apex Court in *Misbah Alam Shaikh v. State of Maharashtra and another* (AIR 1997 SC 1409) while considering the propriety of abolition of Minority Commission in the State of Maharashtra observed "It may be that perception of political parties differ from one another. But when the Government found, after the political party was voted to power and the decision taken by the Cabinet to abolish the Minority Commission, it cannot be characterised as a mala fide decision. May be the perception may not be correct in view of another political party. The decision may or may not be right, but it cannot be characterised as a mala fide decision." This observation applies on all fours to the facts on hand.

13. As stated earlier, Section 3 of the Act confers a discretionary power to the Government to have a Commission. That discretionary power is vested in the highest executive of the State namely, the Government. That discretionary power is not necessarily a discriminatory power. Abuse of that power cannot be easily assumed when it is seen that the discretion is vested in the Government and not in a subordinate official.

14. Another argument that was advanced by the learned counsel representing the petitioners was that public have a right to know about the circumstances which led to the riots in 1992. This right is emanated from Article 19(1)(a) of the Constitution of India. That right has been interfered with by the Government in not extending the term of the Commission. So, the action of the Government is open to challenge under Article 226 of the Constitution of India. This argument is quite attractive. But we do not find any reason to uphold the same on the facts and circumstances of this case. As stated by the Apex Court in *Dinesh Trivedi, M.P. and Another v. Union of India and others* (1997) 4 SCC 306) the right of the citizen to know about the affairs of the State should be subject to limitations. It is not

absolute. Certain unhappy situations arose in December 1992 following the demolition of Babri Masjid. Riots took place. People belonging to different communities fought each other. It was more than seven years back. People have forgotten those instances. Peace have been established. Time being the best healer, by influx of time people have forgotten those black days. Now at this distance of time if circumstances which led to the riots are brought to light, according to the Government, it will affect communal harmony and peace. This consideration can under no circumstance be termed irrelevant. On relevant considerations the Government decided not to extend the term of the Commission. The discretionary power that has been exercised by the Government can under no circumstances be treated as mala fide. So, the right of the public to know, which is not absolute, is subject to the restriction which is now imposed by the Government, which according to us is reasonable.

15. In the circumstances detailed above, we do not find any ground to direct the Government to extend the term of the Commission which was directed to go into the circumstances which led to communal disturbances that took place between 6th and 9th of December 1992 consequent on the demolition of Babri Masjid. Both the Special Civil Applications are accordingly dismissed.

In view of the order passed in the Special Civil Applications, Civil Application No. 8268 of 1997 is also dismissed.

Dt. 9/3/1998.

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(ksp)

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CORAM : THE CHIEF JUSTICE MR. K.SREEDHARAN and

MR.JUSTICE A.R.DAVE

Date of Order: /03/98

CAV ORDER (Per K.Sreedharan,C.J.)

The issues raised in these Special Civil Applications are the same. So, we consider it advantageous to dispose of them by a common order.

2. The Special Civil Application No.6079 of 1997 has been filed by a voluntary organisation stated to be devoted for protection of civil rights of citizens. The Special Civil Application No.6270 of 1997 is at the instance of an office bearer of a political party namely, Communist Party of India. In these petitions the main prayer is to direct the Government to extend the tenure of the Inquiry Commission which was appointed as per Notification dated 21.12.1992.

3. The short facts necessary for understanding the controversy involved in these petitions are as follows:

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and causes of the violent incidents and communal riots that took place during 6th to 9th December 1992 following the demolition of Babri Masjid. While the Commission was at the verge of completing its final report the Government refused to grant further extension from 1.7.1997. By Notification dated 2.9.1997 issued under Section 7(1) of the Act the Commission was notified to have ceased to exist with effect from 30.6.1997. This action of the Government in issuing the Notification under Section 7 of the Act is under challenge.

4. Immediately after demolition of Babri Masjid at Ayodhya on 6.12.1992 the entire country witnessed communal conflicts. The said conflicts had its repercussions in the State of Gujarat between 6th and 9th December 1992. During this period various barbaric acts were perpetrated by the people, especially in Surat. Taking into consideration the extreme violence that took place in various parts of the State, the State Government decided to appoint a Commission to inquire into the incidents under the Act. Mr. Justice I.C. Bhatt, a Retired Judge of the High Court of Gujarat was appointed as Commission by Notification dated 21.12.1992. Mr. Justice I.C. Bhatt resigned from the Commission when he was appointed as Lokayukta. Mr. Justice P.M. Chauhan, a Retired Judge of the High Court of Gujarat was then appointed as Commission on 9.12.1993. According to the petitioners, the Government did not appoint required staff for the Commission. Till about the middle of 1996, it is averred, stenographer and other members of the staff were not made available to the Commission. Despite this, it is the petitioners' case, the Commission examined nearly 1300 witnesses and accepted nearly 2,000 documents in evidence. It is the further case of the petitioners that the Commission was in the process of dictating its report when its period which was being extended periodically was to expire on 30.6.1997. The Commission which was originally appointed for a period of six months was being given extension from time to time and the last extension was for a period of three months which was to expire on 30.6.1997. The Commission sought another extension for a period of four months to complete the report. The Government did not respond to that request. Unfinished work of the Commission came to a grinding halt on 30.6.1997.

5. On behalf of the State Government the Secretary to Government in Home Department, Mr. J. Mahapatra filed affidavit dated 3.10.1997 in reply to averments made by the petitioners in Special Civil Application No. 6079 of 1997. As per that affidavit no right of the

petitioners much less fundamental right has been violated by the Government in winding up the Commission by issuing Notification under Section 7(1) of the Act for the petitioners to move this Court under Article 226 of the Constitution of India. The State Government appointed Shri H.R. Kamodia, retired District and Sessions Judge to be the Secretary to the Commission. Shri Kamodia resigned from the post with effect from 31.12.1996. The Government had deputed Under Secretary, Stenographer Grade-I, Stenographer Grade-III, Typist, one Assistant, one Clerk, two peons and one driver as members of the staff of the Commission. When Stenographer Grade-I was not available the Commission was requested to get the services of private Stenographer on payment to be reimbursed by the Government. Same request was made with respect to Gujarat Stenographer as well. The period of the Commission was extended nine times. The Government expected work to be completed by the Commission within reasonable time for the Government to take necessary action on the report. The Commission did not submit either an interim report or preliminary report even though period of six months was the time fixed for submission of the report, when the Commission was appointed. The period was being extended and 9th extension was given for the period from 1.4.1997 to 30.6.1997. The Government took the decision to wind up the Commission on the following reasons:

- (i) The victims of the violence have been compensated;
- (ii) People who have suffered lodged police complaints which are taken care of legally;
- (iii) People who have suffered have lodged complaints and the proceedings under the Criminal Procedure Code have already been initiated;
- (iv) Accused found in such cases have been arrested;
- (v) Because of lapse of time people have lost interest;
- (vi) No Advocates were attending the Commission for cross-examining the officers of the Police Department, who have filed their affidavits; and
- (vii) There has been communal peace and harmony in the State since the riot of 1992.

6. As per Section 7 of the Act appropriate

Government have power to issue notification for discontinuing the Commission. The Government had no ulterior motive in winding up the Commission. It had nothing to hide from the public, as alleged by the petitioners. The affidavit was concluded by stating that the petitions have only to be dismissed.

7. Section 3(1) of the Act permits the appropriate Government to appoint a Commission of Inquiry for the purpose of making inquiry into any definite matter of public importance. The notification by which the Commission is so appointed is to specify the time within which the Commission shall make the inquiry and perform the function. It is settled law that Section 3(1) of the Act confers discretion on the Government to appoint a Commission or not. The discretionary power that is conferred on the government is not coupled with any duty. The said Section merely gives a power to the Government to appoint a Commission and does not, at the same time, confer any benefit on any person or group of persons, a corresponding right to call upon the Government to have an inquiry conducted. The Government is getting the power to inform its mind or to find out if certain facts exist. It is for the Government to consider whether to appoint a Commission for making an inquiry. In other words, no corresponding right is conferred on any person to compel the Government to appoint a Commission. When such is the right given to the Government which is purely discretionary, the Courts have taken the view that Government cannot be compelled to appoint a Commission under the Act.

8. The Government in the instant case appointed the Commission to inquire into various incidents that took place during the period from 6.12.1992 to 9.12.1992 in the wake of demolition of Babri Masjid. As per the Notification issued on 21.12.1992 the Commission was to submit its report within six months. The Commission got its tenure extended on nine occasions. The 9th extension was from 1.4.1997 to 30.6.1997. By that time more than four and half years expired from the dates of incidents and date of appointment of the Commission. During this period the Commission did not submit any preliminary report or interim report. On 3.6.1997 a communication was sent by the Commission to the Government asking for further extension of four months i.e. upto 31.10.1997. The Government did not act on that communication.

9. Section 3 of the Act enjoins the Government to specify the time within which a Commission has to submit its report. According to the Section, a notification

appointing the Commission should specify the functions and the time within which those functions should be performed and the Commission shall make the inquiry and perform the functions accordingly. If the Commission does not perform the functions within the time specified in the notification the Commission cannot have the functions continued after the expiry of the period. In other words, on the expiry of the term the Commission automatically ceases to exist. Once the Commission ceases to exist by influx of time there was no necessity for the Government to notify the cessation of the Commission under Section 7 of the Act. Section 7(1)(a) of the Act states that the appropriate Government may, by notification in the Official Gazette, declare that a Commission shall cease to exist, if it is of opinion that the continued existence of the Commission is unnecessary. Sub-section (2) of Section 7 of the Act provides that the notification should specify the date from which the Commission shall cease to exist. Notification under Section 7 of the Act is contemplated only in the case of a Commission which is continued to exist. If the Commission had ceased to exist on the expiry of the term for which it is appointed, Section 7 of the Act cannot apply. In the case of a Commission which is having continued existence the Government needs to issue a notification under Section 7 of the Act declaring that it ceased to exist from a particular date. In other words, notification under Section 7 of the Act is not warranted in relation to a Commission which is not having continued existence as in the case of the term of the Commission having expired. In the case on hand the term of the Commission expired on 30.6.1997. Since its term has not been extended by the Government it automatically ceased to exist with effect from 30.6.1997. The Commission did not continue to exist after 30.6.1997. In such a situation there was no necessity for the Government to issue a notification under Section 7 of the Act on 2.9.1997. That notification has only to be ignored.

10. According to the learned counsel representing the petitioners, notification dated 2.9.1997 is illegal and against the provisions of the Act. It is his argument that notification under Section 7 of the Act cannot be retrospective and it can only be prospective. It is true that a notification under Section 7 of the Act should state that the Commission shall cease to exist with effect from a particular date in relation to one which has a continued existence. If the Commission is not having continued existence on a particular date notification under Section 7 of the Act subsequent to that date is unwarranted. In the instant case on account

of non-extension of the term of the Commission from 30.6.1997 the Commission ceased to exist and a notification under Section 7 of the Act was not at all warranted. Viewed in this light notification dated 2.9.1997 will not in any way affect the life of the Commission. This will not in any way go to support the petitioners' claim to have the life of the Commission extended.

11. As stated earlier, this Court has no power to direct the Government to appoint a Commission under the Act. On account of influx of time the term of the Commission expired on 30.6.1997. The term was not extended by the Government. This Court cannot compel the Government to extend the term of that Commission either.

12. The Government have given many reasons for not extending the term of the Commission. One of the reasons is that there has been communal peace and harmony in the State since the riot of 1992. In such a situation the Government thought it proper not to have a postmortem examination of the circumstances which led to riots for kindling feelings of bickering between members of different communities. This reason appears to be quite justifiable. It cannot be said that it is an irrelevant consideration. The circumstances which led the Government for not extending the term of the Commission can never be stated to be on collateral consideration. No ground of mala fides against the Government has been even alleged by the petitioners in these petitions. On the facts and circumstances of this case we are not in a position to spell out mala fides or collateral consideration in Government not giving extension to the term of the Commission. The Apex Court in *Misbah Alam Shaikh v. State of Maharashtra* and another (AIR 1997 SC 1409) while considering the propriety of abolition of Minority Commission in the State of Maharashtra observed "It may be that perception of political parties differ from one another. But when the Government found, after the political party was voted to power and the decision taken by the Cabinet to abolish the Minority Commission, it cannot be characterised as a mala fide decision. May be the perception may not be correct in view of another political party. The decision may or may not be right, but it cannot be characterised as a mala fide decision." This observation applies on all force to the facts on hand.

13. As stated earlier, Section 3 of the Act confers a discretionary power to the Government to have a Commission. That discretionary power is vested in the

highest executive of the State namely, the Government. That discretionary power is not necessarily a discriminatory power. Abuse of that power cannot be easily assumed when it is seen that the discretion is vested in the Government and not in a subordinate official.

14. Another argument that was advanced by the learned counsel representing the petitioners was that public have a right to know about the circumstances which led to the riots in 1992. This right is emanated from Article 19(1)(a) of the Constitution of India. That right has been interfered with by the Government in not extending the term of the Commission. So, the action of the Government is open to challenge under Article 226 of the Constitution of India. This argument is quite attractive. But we do not find any reason to uphold the same on the facts and circumstances of this case. As stated by the Apex Court in *Dinesh Trivedi, M.P. and Another v. Union of India and others* (1997) 4 SCC 306) the right of the citizen to know about the affairs of the State should be subject to limitations. It is not absolute. Certain unhappy situations arose in December 1992 following the demolition of Babri Masjid. Riots took place. People belonging to different communities fought each other. It was more than seven years back. People have forgotten those instances. Peace have been established. Time being the best healer by influx of time people have forgotten those black days. Now at this distance of time if circumstances which led to the riots are brought to light, according to the Government, it will affect communal harmony and peace. This consideration can under no circumstance be termed irrelevant because on relevant considerations the Government decided not to extend the term of the Commission. The discretionary power that has been exercised by the Government can under no circumstances be treated as mala fide. So, the right of the public to know which is not absolute is subject to the restriction which is now imposed by the Government which according to us is reasonable.

15. In the circumstances detailed above, we do not find any ground to direct the Government to extend the term of the Commission which was directed to go into the circumstances which led to communal disturbances which took place between 6th and 9th of December 1992 consequent on the demolition of Babri Masjid. Both the Special Civil Applications are accordingly dismissed.

In view of the order passed in the Special Civil

Applications, Civil Application No. 8268 of 1997 is also dismissed.

Dt. /3/1998.

( K. SREEDHARAN,C.J.)

( A.R. DAVE, J.)

(ksp)